

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

DAVID A. STEBBINS

PLAINTIFF

v.

NO. 4:16-CV-545-JM

**STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND
AMY JONES**

DEFENDANT

DEFENDANTS' MOTION TO STAY 26(f) DEADLINES

COME NOW Defendants the State of Arkansas, Arkansas Rehabilitation Services, and Amy Jones, by and through their attorneys, Attorney General Leslie Rutledge and Assistant Attorney Amber R. Schubert, and for her Motion to Stay 26(f) Deadlines, state as follows:

1. Plaintiff David Stebbins filed his Complaint in this action alleging Defendants Amy Jones and Arkansas Rehabilitation Services (“ARS”) violated his civil rights pursuant to 42 U.S.C. § 1983 and his rights under Title II of the Americans With Disabilities Act (ADA), and seeks a total of \$744,537.50 in damages. Plaintiff also sued the State of Arkansas, but makes no allegations against the State of Arkansas in his Complaint.

2. On November 10, 2016, Defendants filed a Motion to Dismiss Plaintiff’s Complaint for failure to state a claim upon which relief can be granted, and because Plaintiff’s claims are barred Eleventh Amendment sovereign immunity. On December 6, 2016, Plaintiff filed a response to Defendants’ Motion to Dismiss and that motion is now pending before the Court.

3. On November 29, 2016, this Court entered an Initial Scheduling Order and Proposed Final Scheduling Order setting deadlines in the case, including a 26(f) conference deadline of January 18, 2017, and a 26(f) report deadline of February 1, 2017. (D.E. 22)

4. The Plaintiff has repeatedly used the Court's issuance of the Initial Scheduling Order to justify premature filings of discovery, a motion for summary judgment, and other pleadings, asserting that the issuance of the Initial Scheduling Order is an indication that the Court will, and essentially has, denied Defendants' Motion to Dismiss.

5. Despite Plaintiff's assertions to the contrary, this Court has not ruled on the pending Motion to Dismiss, and it is unlikely that the issues raised in Defendants' Motion to Dismiss will be decided prior to the deadlines set in the Initial Scheduling Order, specifically the deadline for conducting the Rule 26(f) conference and filing the Rule 26(f) report.

6. This Court has broad discretion over matters of discovery, including the authority to stay discovery deadlines, such as the Rule 26(f) deadlines. *Ballard v. Heineman*, 548 F.3d 1132 (8th Cir. 2008).

7. Defendants respectfully request that this Court stay the Rule 26(f) deadlines set out in the Initial Scheduling Order until such time as the Court has ruled on the pending Motion to Dismiss.

WHEREFORE, Defendants respectfully request that the Court grant its Motion to Stay Deadlines and for all other proper relief.

Respectfully submitted,

Leslie Rutledge
Attorney General

By: /s/ Amber R. Schubert
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Amber R. Schubert, Assistant Attorney General, do hereby certify that on January 10, 2017, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system.

I, Amber R. Schubert, hereby certify that on January 10, 2017, I mailed the document by U.S. Postal Service to the following non CM/ECF participant:

Mr. David Stebbins
123 W. Ridge St., Apt. D
Harrison, Arkansas 72601

/s/ Amber R. Schubert